Worksession

Agenda Item #	4
Meeting Date	September 15, 2003
Prepared By	Alfred D. Lott, Public Works Director
Approved By	Richard M. Finn, City Manager

Discussion Item	Stormwater Management on Private Property
Background	In the last year the City has been presented with two significant challenges related to the management of stormwater on private property. The issues are: 1. When a homeowner modifies the flow of stormwater on his/her property and causes negative results downhill on a neighbor's property, the downhill property owner's recourse, in the event that the neighboring parties are unable to resolve the problem between themselves, is a civil legal action for damages and/or injunctive relief. Under the general civil law doctrine applicable in Maryland, a landowner has the right to have surface water flow naturally from his land over lower lands, but cannot with impunity artificially increase, divert, or concentrate the natural flow of such waters. Some City residents wish to see the Takoma Park Code amended to provide enforceable provisions to deal with such matters. For example, if a resident directs his/her roof drain water directly into the neighbor's yard (downhill land), the Takoma Park Code should (in their opinion) make that a violation and the City should provide a remedy. 2. Presently the City manages all stormwater issues on public property and its storm drain system. When stormwater problems are identified on private property it is the responsibility of the property owner to manage the solution. In general, the City Engineer will come out and initially consult with the resident, but the resolution is the responsibility of the property owner. However, if the City caused or significantly contributed to the problem, then the City has in the past participated in the resolution of the problem. Several residents have expressed the view that it should be the responsibility of the City to solve drainage, flooding, and other stormwater and surface water problems regardless of where the problem occurs.
Policy	The City presently only manages stormwater on public property and its flow through the City's storm drain system. Furthermore, the Takoma Park Code does not provide remedies specifically related to stormwater runoff disputes between owners of private property.

Fiscal Impact	If the responsibility for managing stormwater problems on private property becomes the responsibility of the City, there would be a significant fiscal impact. Rolling terrain exists throughout the City and there are hundreds of instances where steep slopes create stormwater problems. Consequently, the demand for stormwater problem solving could be tremendous. 1. The City Engineer is basically a one person operation. He is responsible for all civil engineering activities in the City including stormwater management, street renovations, and traffic engineering. The demand to resolve stormwater problems on private property may so great that it would dominate his professional efforts. This could result in the City being required to supplement the City Engineer's office in some manner. 2. In addition, if a property owner did not act to remedy a violation, then enforcement action by the City would be required. Such action might involve issuance of municipal infraction citations or an action for injunction to require, for example, an uphill property owner who had increased or diverted the flow of surface or stormwaters to the detriment of the adjacent or downhill property owner to construct and maintain a drainage system. 3. The City would most likely have to provide additional funding to the Public Works Department's stormwater budget and to the City's legal budget in order to support this new mission. The most likely source of the additional funding would be to increase the stormwater management fee which is how the City currently funds it's Stormwater budget.
Attachments	
Recommendation	The City Council should consider this issue carefully and if the Council wants to pursue it further then Staff should be directed to spend time to better identify the potential cost and legal responsibilities of such a new initiative.
Special Consideration	